

PARKS, BAUER, SIME, WINKLER & FERNETY LLP

ATTORNEYS AT LAW

570 LIBERTY STREET SE, SUITE 200
SALEM, OREGON 97301-3492

(503) 371-3502
FAX (503) 371-0429

KEITH J. BAUER, PC
BILLY M. SIME
ROBERT L. WINKLER
MICHAEL D. FERNETY
JONATHAN H. BAUER
MICHAEL J. WALKER

February 1, 2013

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Records Custodian for
Oregon Department of Justice and
Deputy Attorney General Mary Williams
1162 Court St NE
Salem OR 97301

RE: Brentley Foster et al. v. Patrick Flaherty et al.
U.S. District Court Case No. 6:11-cv-6115-AA
Our File No. 14515

Dear Records Custodian:

I represent defendant Patrick Flaherty in the above-captioned case. Enclosed is a Subpoena Duces Tecum to Produce Documents etc. which are in the possession of Deputy Attorney General Mary Williams and/or the Oregon Department of Justice or under your control as the records custodian of Mary Williams and/or the Oregon Department of Justice.

The Subpoena requests that your office produce the subpoenaed documents to my office by March 1, 2013. You may do so by mailing the documents to me in a manner which assures their delivery by March 1, 2013.


If the documents are received by March 1, 2013, this subpoena does not require a personal appearance.

You are entitled to be reimbursed for your reasonable costs in producing the subpoenaed documents. Please provide me with verification of those costs.

Very truly yours,

PARKS, BAUER, SIME, WINKLER & FERNETY, LLP

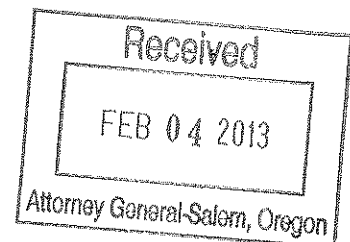
By:


Keith J. Bauer

KJB:lw

Enclosures

cc: Andrew Altschul
Judy Snyder
Patrick Flaherty



UNITED STATES DISTRICT COURT

for the

District of Oregon

_____)	
<i>Plaintiff</i>)	
v.)	Civil Action No. 6:11-cv-06115-AA
Flaherty, et al.)	
_____)	(If the action is pending in another district, state where:
<i>Defendant</i>))

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Records Custodian for Oregon Department of Justice and Deputy Attorney General Mary Williams
1162 Court St NE, Salem OR 97301

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: See Exhibit A.

Place: Parks Bauer Sime Winkler & Fernety LLP 570 Liberty St SE, Suite 200 Salem OR 97301	Date and Time: 03/01/2013 9:00 am
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Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
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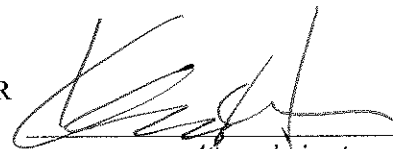
The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 01/31/2013

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk



Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing *(name of party)* Patrick Flaherty, who issues or requests this subpoena, are:

Keith J Bauer, Parks Bauer Sime Winkler & Fernety LLP, 570 Liberty St SE, Suite 200, Salem OR 97301 (503) 371-3502; Fax (503) 371-0429

Civil Action No. 6:11-cv-06115-AA

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on *(date)* _____; or

I returned the subpoena unexecuted because: _____
_____.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____
_____ *Server's signature*

Printed name and title

Server's address

Additional information regarding attempted service, etc:

EXHIBIT A

Description: Any and all documents (to include, but not limited to, letters, notes, memorandums, electronic documents, meeting minutes, and written or recorded communications), electronically stored information (“ESI”) (to include, but not limited to emails, text messages, logs, computer notes, video, photographs and audio recordings):

- 1) From January 1, 2010 to present, any and all documents and ESI regarding:
 - a. Patrick Flaherty (“Flaherty”);**
 - b. Valerie Wright;**
 - c. The 2010 Deschutes County District Attorney election campaign (“Campaign”);**
 - d. The 2010 Deschutes County District Attorney election (“Election”);**
 - e. Flaherty’s election to the Office of Deschutes County District Attorney (“District Attorney”) in January of 2011;**
 - f. The transition of the office to Patrick Flaherty; and**
 - g. Oregon State Bar complaints related to Patrick Flaherty.****
- 2) From January 1, 2010 to present, any and all documents and ESI regarding anything related to inquiries or investigations of any kind pertaining to Patrick Flaherty or the Deschutes County District Attorney’s Office (“District Attorney’s Office”).**
- 3) From January 1, 2010 to present, all documents and ESI regarding any communications with anyone to or from Deschutes County Legal Counsel (to include but not limited to Mark Pilliod, Chris Bell, Connie Scorza and Darryl Nakahira) and any legal research or analysis regarding:**

- a. **Patrick Flaherty;**
 - b. **Michael Dugan;**
 - c. **The Deputy District Attorneys' ("DDA") collective bargaining agreement ("CBA");**
 - d. **The DDA union;**
 - e. **The documents, analysis and case law relied upon by Mary Williams to advise and correspond with the Deschutes County Legal Counsel's Office including;**
 - f. **The authority given to Mary Williams to correspond with Deschutes County Legal Counsel regarding the Deschutes County District Attorney's Office, and Patrick Flaherty;**
 - g. **Darryl Nakahira;**
 - h. **Jody Vaughan;**
 - i. **Brentley Foster;**
 - j. **Phil Duong ; and**
 - k. **Mary Anderson.**
- 4) **From January 1, 2010 to present, all documents and ESI regarding any communications with anyone to or from any entity at Deschutes County (to include the Deschutes County Board of Commissioners) regarding:**
- a. **Patrick Flaherty;**
 - b. **Michael Dugan;**
 - c. **The Deputy District Attorneys' ("DDA") collective bargaining agreement ("CBA"); and**
 - d. **The DDA union;**
 - e. **The authority given to any employee of DOJ to communicate with Deschutes County regarding the Deschutes County District Attorney's Office and Patrick Flaherty;**

- f. Darryl Nakahira;**
- g. Jody Vaughan;**
- h. Brentley Foster;**
- i. Phil Duong; and**
- j. Mary Anderson.**

5) From January 1, 2010 to present, all documents and ESI regarding any communications with anyone who is formerly or currently with the Deschutes County District Attorney's Office (to include, but not limited to, Michael Dugan, Darryl Nakahira, Jody Vaughan, Brentley Foster, Phil Duong, Patty Hendrix, Sharon Sweet, Debby Jenson, Debi Harr, Pat Horton, Tracy Anderson and Nicole Jenson) regarding:

- a. Patrick Flaherty;**
- b. the 2010 DA election;**
- c. the 2010-2011 transition of Patrick Flaherty into Office;**
- d. the DDA's CBA;**
- e. The DDA union;**
- f. Michael Dugan;**
- g. Darryl Nakahira;**
- h. Jody Vaughan;**
- i. Brentley Foster;**
- j. Phil Duong and**
- k. Mary Anderson.**

6) From January 1, 2010 to present, all documents and ESI regarding any communications with Andrew Altschul, Judy Snyder or any attorney that formerly or currently represents the DDA union regarding:

- a. Patrick Flaherty;**
- b. Michael Dugan;**

- c. The Deschutes County District Attorney's Office**
- d. the 2010 Election;**
- e. the 2010-2011 transition of Patrick Flaherty into Office;**
- f. the DDA's CBA;**
- g. the DDA union;**
- h. Darryl Nakahira;**
- i. Jody Vaughan;**
- j. Brentley Foster;**
- k. Phil Duong; and**
- l. Mary Anderson.**

7) All documents and ESI from January 2010 to present regarding Patrick Flaherty, the transition of the office to Patrick Flaherty, and any observations, predictions, concerns or complaints regarding Patrick Flaherty and any matter related to the District Attorney's Office.

Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)

(c) Protecting a Person Subject to a Subpoena.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney’s fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party’s officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party’s officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert’s opinion or information that does not describe specific occurrences in dispute and results from the expert’s study that was not requested by a party; or

(iii) a person who is neither a party nor a party’s officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty’s failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).